

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JENNIFER TUNG, on behalf of all others  
Similarly situated,

Plaintiff,

-against-

18 **CIVIL** 1611 (MKV)

**JUDGMENT**

BRISTOL-MYERS SQUIBB COMPANY,  
MICHAEL GIORDANO, FOUAD NAMOUNI,  
FRANCIS M. CUSS, GIOVANNI CAFORIO,  
LAMBERTO ANDREOTTI, and CHARLES A.  
BANCROFT,

Defendants.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated September 30, 2020, following dismissal of the First Amended Consolidated Class Action Complaint, Lead Plaintiffs' attempted to remedy the specific deficiencies identified in the Dismissal Order. Those efforts, as described herein, fall short. The Second Amended Complaint suffers from the same deficiencies as the first. Namely, Lead Plaintiffs have not alleged sufficient particularized facts to lead the Court to a strong inference of scienter as required by the PSLRA. The complaint fails to establish the existence of an industry standard definition relating to PD-L1 expression, as would be required to find that Defendants knowingly or recklessly disregarded the standard. Moreover, Lead Plaintiffs' allegations of insider trading, while in one small part notable, are collectively not sufficient to establish an inference of motive to commit fraud. Additionally, Lead Plaintiffs' failure to allege the existence of an industry standard definition means that they also have failed to allege any materially misleading statement or omission. As such, Defendants' Motion to Dismiss the Second Amended Consolidated Complaint is GRANTED and the complaint is DISMISSED WITH PREJUDICE; accordingly,

this case is closed.

**Dated:** New York, New York

September 30, 2020

**RUBY J. KRAJICK**

**BY:**

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**Clerk of Court**

*K. mango*

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**Deputy Clerk**